

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10

11 Mark Eulberg,
12 Plaintiff,
13 v.
14 Praxair, Inc., et al.,
15 Defendants.
16

No. CV 12-5229 PA (JEMx)

PROTECTIVE ORDER CONCERNING
CONFIDENTIAL INFORMATION

17 The Court enters the following protective order:

18 1. In connection with discovery proceedings in this action, the parties may
19 designate any document, thing, material, testimony or other information derived therefrom,
20 as “Confidential” under the terms of this Protective Order (hereinafter “Order”).

21 Confidential information is trade secrets, proprietary information, and other highly
22 confidential commercial information, or material required to be kept confidential by state or
23 federal law.

24 2. By designating a document, thing, material, testimony or other information
25 derived therefrom as “Confidential” under the terms of this Order, the party making the
26 designation is certifying to the Court that there is a good faith basis in law and in fact for the
27 designation within the meaning of Federal Rule of Civil Procedure 26(g).
28

1 3. Confidential documents shall be so designated by stamping copies of the
2 document produced to a party with the legend “CONFIDENTIAL.” Stamping the legend
3 “CONFIDENTIAL” on the cover of any multipage documents shall designate all pages of
4 the document as confidential, unless otherwise indicated by the producing party.

5 4. Testimony taken at a deposition may be designated as confidential by making
6 a statement to that effect on the record at the deposition. Arrangements shall be made with
7 the court reporter taking and transcribing such deposition to separately bind such portions of
8 the transcript containing information designated as confidential, and to label such portions
9 appropriately.

10 5. Material designated as confidential under this Order, the information contained
11 therein, and any summaries, copies, abstracts, or other documents derived in whole or in part
12 from material designated as confidential (hereinafter “Confidential Material”) shall be used
13 only for the purpose of the prosecution, defense, or settlement of this action, and for no other
14 purpose.

15 6. Confidential Material produced pursuant to this Order may be disclosed or
16 made available only to the Court, to counsel for a party (including the paralegal, clerical, and
17 secretarial staff employed by such counsel), and to the “qualified persons” designated
18 below:

- 19 (a) a party, or an officer, director, or employee of a party deemed necessary
20 by counsel to aid in the prosecution, defense, or settlement of this
21 action;
22 (b) experts or consultants (together with their clerical staff) retained by
23 such counsel to assist in the prosecution, defense, or settlement of this
24 action;
25 (c) court reporter(s) employed in this action;
26 (d) a witness at any deposition or other proceeding in this action; and
27 (e) any other person as to whom the parties in writing agree.
28

1 Prior to receiving any Confidential Material, each “qualified person” shall be provided with
2 a copy of this Order and shall execute a nondisclosure agreement in the form of Attachment
3 A, a copy of which shall be provided forthwith to counsel for each other party and for the
4 parties.

5 7. Only qualified persons may attend depositions at which Confidential Material
6 is used or discussed.

7 8. The parties may further designate certain discovery material or testimony of a
8 highly confidential and/or proprietary nature as “CONFIDENTIAL - ATTORNEY’S EYES
9 ONLY” (hereinafter “Attorney’s Eyes Only Material”), in the manner described in
10 paragraphs 2 and 3 above. Attorney’s Eyes Only Material, and the information contained
11 therein, shall be disclosed only to the Court, to counsel for the parties (including the
12 paralegal, clerical and secretarial staff employed by such counsel), and to the “qualified
13 persons” listed in subparagraphs 6(b) through (e) above, but shall not be disclosed to a party,
14 or to an officer, director or employee of a party, unless otherwise agreed or ordered. If
15 disclosure of Attorney’s Eyes Only Material is made pursuant to this paragraph, all other
16 provisions in this order with respect to confidentiality shall also apply.

17 9. Nothing herein shall impose any restrictions on the use or disclosure by a party
18 of material obtained by such party independent of discovery in this action, whether or not
19 such material is also obtained through discovery in this action, or from disclosing its own
20 Confidential Material as it deems appropriate.

21 10. If Confidential Material, including any portion of a deposition transcript
22 designated as Confidential or Attorney's Eyes Only, is included in any papers to be filed
23 with the Court, such papers shall be accompanied by an application to (a) file the
24 confidential portions thereof under seal (if such portions are segregable), or (b) file the
25 papers in their entirety under seal (if the confidential portions are not segregable). The
26 application shall be directed to the judge to whom the papers are directed. Pending the
27 ruling on the application, the papers or portions thereof subject to the sealing application
28 shall be lodged under seal.

Attachment A

Nondisclosure Agreement

I, _____, do solemnly swear that I am fully familiar with the terms of the Protective Order Concerning Confidential Information entered in Mark Eulberg v. Praxair, Inc., et al., United States District Court for the Central District of California, Civil Action No. CV 12-5229 PA (JEMx), and hereby agree to comply with and be bound by the terms and conditions of said Order unless and until modified by further Order of the Court. I hereby consent to the jurisdiction of the Court for purposes of enforcing this nondisclosure agreement.

DATED:

[Name of Signator Typed]